

HOUSE BILL No. 1342

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8.1.

Synopsis: Tax amnesty. Authorizes the commissioner of the department of state revenue (department) to direct the department to conduct a tax amnesty program whenever the commissioner determines that an amnesty program would be fiscally or administratively beneficial to the state.

Effective: July 1, 2016.

Summers

January 12, 2016, read first time and referred to Committee on Ways and Means.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1342

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-8.1-3-17.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2016]: **Sec. 17.5. (a) This section applies after**
4 **December 31, 2017.**

5 **(b) The commissioner may direct the department to conduct an**
6 **amnesty program in accordance with this section whenever the**
7 **commissioner determines that an amnesty program would be**
8 **fiscally or administratively beneficial to the state. An order of the**
9 **commissioner establishing an amnesty program under this section**
10 **must specify:**

- 11 **(1) The listed taxes to which the amnesty program applies.**
12 **(2) The range of tax periods to which the amnesty program**
13 **applies, which may vary by listed tax.**
14 **(3) The period during which a taxpayer having an unpaid**
15 **liability for a listed tax to which the amnesty program applies**
16 **that was due and payable for a tax period to which the**
17 **amnesty program applies must:**



- 1 (A) make a voluntary payment of tax liability; or
- 2 (B) enter into a payment program acceptable to the
- 3 department for payment of the unpaid listed tax in full in
- 4 the manner and time established in a written payment
- 5 program agreement between the department and the
- 6 taxpayer.
- 7 (c) For purposes of an amnesty program under this section, a
- 8 liability for a listed tax is due and payable if:
- 9 (1) the department has issued:
- 10 (A) an assessment of the listed tax under IC 6-8.1-5-1;
- 11 (B) a demand for payment under IC 6-8.1-5-3; or
- 12 (C) a demand notice for payment of the listed tax under
- 13 IC 6-8.1-8-2;
- 14 (2) the taxpayer has filed a return or an amended return in
- 15 which the taxpayer has reported a liability for the listed tax;
- 16 or
- 17 (3) the taxpayer has filed a written statement of liability for
- 18 the listed tax in a form that is satisfactory to the department.
- 19 (d) A taxpayer is not eligible for an amnesty program under this
- 20 section:
- 21 (1) for any tax liability resulting from the taxpayer's failure
- 22 to comply with IC 6-3-1-3.5(b)(3) with regard to the tax
- 23 imposed by IC 4-33-13 or IC 4-35-8; or
- 24 (2) for an unpaid liability that was due and payable for a
- 25 listed tax and tax period, if the taxpayer participated in any
- 26 previous amnesty program under:
- 27 (A) this section;
- 28 (B) section 17 of this chapter; or
- 29 (C) IC 6-2.5-14;
- 30 that applied to the listed tax and tax period.
- 31 (e) An amnesty program under this section must provide the
- 32 following:
- 33 (1) A taxpayer is eligible for the benefits described in
- 34 subdivision (2) if:
- 35 (A) for all listed taxes and tax periods to which the
- 36 amnesty program applies, the taxpayer:
- 37 (i) pays to the department the amount of the taxpayer's
- 38 liability that is due and payable; or
- 39 (ii) agrees to make payment of the unpaid listed taxes in
- 40 full in the manner and time established in a written
- 41 payment program agreement between the department
- 42 and the taxpayer;



(B) the taxpayer enters into an agreement that the taxpayer is not eligible for any other amnesty program that may be established for the listed taxes and tax periods to which the amnesty period applies and waives any part of interest and penalties on the same type of listed tax that is being granted amnesty in the amnesty program; and

(C) the taxpayer complies with all other amnesty conditions adopted under a rule of the department in effect on the date the voluntary payment is made.

(2) If a taxpayer meets the requirements of subdivision (1), the department:

(A) shall abate and not seek to collect any interest, penalties, collection fees, or costs that would otherwise be applicable;

(B) shall release any liens imposed;

(C) shall not seek civil or criminal prosecution against any individual or entity; and

(D) shall not issue, or, if issued, shall withdraw, an assessment, a demand notice, or a warrant for payment under IC 6-8.1-5-1, IC 6-8.1-5-3, IC 6-8.1-8-2, or another law against any individual or entity;

for listed taxes due from the taxpayer for a tax period for which amnesty is being granted to the taxpayer.

(3) Amnesty granted under this subsection is binding on the state and its agents. However, failure to pay to the department all listed taxes to which the amnesty program applies that are due for a tax period to which the amnesty program applies invalidates any amnesty granted under this subdivision for that tax period.

(f) The department shall enforce an agreement with a taxpayer described in subsection (e)(1)(B) that prohibits the taxpayer from receiving amnesty in another amnesty program.

(g) The department shall conduct an assessment of the impact of a tax amnesty program conducted under this section on tax collections and an analysis of the costs of administering the tax amnesty program. As soon as practicable after the end of the tax amnesty period, the department shall submit a copy of the assessment and analysis to the legislative council in an electronic format under IC 5-14-6.

SECTION 2. IC 6-8.1-3-24, AS ADDED BY P.L.213-2015, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 24. (a) The department of state revenue may adopt



1 emergency rules under IC 4-22-2-37.1 to carry out a tax amnesty
2 program under section 17 **or 17.5** of this chapter.

3 (b) Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted
4 by the department under IC 4-22-2-37.1 expires on the date specified
5 in the emergency rule.

6 ~~(c) This section expires July 1, 2017.~~

7 SECTION 3. IC 6-8.1-10-12, AS AMENDED BY P.L.213-2015,
8 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2016]: Sec. 12. (a) This section applies to a penalty related to
10 a tax liability to the extent that the:

11 (1) tax liability is for a listed tax;

12 (2) tax liability was due and payable:

13 (A) as determined under IC 6-8.1-3-17(d), for a tax period
14 ending before January 1, 2013; **or**

15 **(B) as determined under IC 6-8.1-3-17.5(c), for a listed tax**
16 **and a tax period to which an amnesty program under**
17 **IC 6-8.1-3-17.5 applies;**

18 (3) department establishes an amnesty program for the tax
19 liability under IC 6-8.1-3-17(c) **or IC 6-8.1-3-17.5;**

20 (4) individual or entity from which the tax liability is due was
21 eligible to participate in ~~the~~ **an** amnesty program described in
22 subdivision (3); and

23 (5) tax liability is not paid:

24 (A) in conformity with a payment program acceptable to the
25 department that provides for payment of the unpaid listed
26 taxes in full in the manner and time established in a written
27 payment program agreement entered into between the
28 department and the taxpayer under IC 6-8.1-3-17(c) **or**
29 **IC 6-8.1-3-17.5;** or

30 (B) if clause (A) does not apply, before the end of the amnesty
31 period established by the department.

32 (b) Subject to subsection (c), if a penalty is imposed or otherwise
33 calculated under any combination of:

34 (1) IC 6-8.1-1-8;

35 (2) section 2.1 of this chapter;

36 (3) section 3 of this chapter;

37 (4) section 3.5 of this chapter;

38 (5) section 4 of this chapter;

39 (6) section 5 of this chapter;

40 (7) section 6 of this chapter;

41 (8) section 7 of this chapter;

42 (9) section 9 of this chapter; or



(10) IC 6-6;
 an additional penalty is imposed under this section. The amount of the additional penalty imposed under this section is equal to the sum of the penalties imposed or otherwise calculated under the provisions listed in subdivisions (1) through (10).

(c) The additional penalty provided by subsection (b) does not apply if all of the following apply:

(1) The department imposes a penalty on a taxpayer or otherwise calculates the penalty under the provisions described in subsection (b)(1) through (b)(10).

(2) The taxpayer against whom the penalty is imposed:

(A) timely files an original tax appeal in the tax court under IC 6-8.1-5-1; and

(B) contests the department's imposition of the penalty or the tax on which the penalty is based.

(3) The taxpayer meets all other jurisdictional requirements to initiate the original tax appeal.

(4) Either the:

(A) tax court enjoins collection of the penalty or the tax on which the penalty is based under IC 33-26-6-2; or

(B) department consents to an injunction against collection of the penalty or tax without entry of an order by the tax court.

(d) The additional penalty provided by subsection (b) does not apply if the taxpayer:

(1) has a legitimate hold on making the payment as a result of an audit, bankruptcy, protest, taxpayer advocate action, or another reason permitted by the department;

(2) ~~had~~ established a payment plan with the department before:

(A) May 12, 2015, **for the amnesty program under IC 6-8.1-3-17; or**

(B) **before the date on which an amnesty program is established for a listed tax and tax period, for an amnesty program under IC 6-8.1-3-17.5; or**

(3) verifies with reasonable particularity that is satisfactory to the commissioner that the taxpayer did not ever receive notice of the outstanding tax liability.

